

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 252

SENATE BILL 1013

AN ACT

AMENDING SECTION 13-4505, ARIZONA REVISED STATUTES; AMENDING SECTION 13-4512, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 161, SECTION 4; AMENDING SECTION 13-4512, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 244, SECTION 3; AMENDING LAWS 1999, CHAPTER 255, SECTION 9, AS AMENDED BY LAWS 2001, CHAPTER 244, SECTION 6, LAWS 2002, CHAPTER 161, SECTION 11 AND LAWS 2004, CHAPTER 26, SECTION 3; RELATING TO INCOMPETENCE TO STAND TRIAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-4505, Arizona Revised Statutes, is amended to
3 read:

4 13-4505. Appointment of experts; costs

5 A. If the court determines pursuant to section 13-4503 that reasonable
6 grounds exist for a competency examination, the court shall appoint two or
7 more mental health experts, at least one of whom shall be a physician
8 specializing in psychiatry licensed pursuant to title 32, chapter 13 or 17,
9 to examine the defendant, issue a report and, if necessary, testify regarding
10 the defendant's competency. The state and the defendant may stipulate to the
11 appointment of only one expert.

12 B. The court may order the defendant to submit to physical,
13 neurological or psychological examinations, if necessary, to adequately
14 determine the defendant's mental condition.

15 ~~C. The county shall pay the costs of any court ordered examination,~~
16 ~~except that~~ THE COURT SHALL ORDER THE DEFENDANT TO PAY THE COSTS OF THE COURT
17 ORDERED EXAMINATION, EXCEPT THAT IF THE COURT FINDS THE DEFENDANT IS INDIGENT
18 OR OTHERWISE UNABLE TO PAY ALL OR ANY PART OF THE COSTS OR IF THE PROSECUTION
19 REQUESTED THE EXAMINATION, THE COURT SHALL ORDER THE COUNTY TO PAY THE COSTS
20 OF THE EXAMINATION OR, if ~~a~~ THE case is referred by a municipal court judge,
21 the COURT SHALL ORDER THE city ~~shall~~ TO pay the costs of the examination.

22 D. This section does not prohibit any party from retaining its own
23 expert to conduct any additional examinations at its own expense.

24 E. A person who is appointed as a mental health expert or clinical
25 liaison is entitled to immunity, except that the mental health expert or
26 clinical liaison may be liable for intentional, wanton or grossly negligent
27 acts that are done in the performance of the expert's or liaison's duties.

28 Sec. 2. Section 13-4512, Arizona Revised Statutes, as amended by Laws
29 2002, chapter 161, section 4, is amended to read:

30 13-4512. Treatment order; commitment

31 A. The court may order a defendant to undergo ~~outpatient~~ OUT OF
32 CUSTODY competency restoration treatment. ~~or may~~ IF THE COURT DETERMINES
33 THAT CONFINEMENT IS NECESSARY FOR TREATMENT, THE COURT SHALL commit the
34 defendant for competency restoration treatment to THE COMPETENCY RESTORATION
35 TREATMENT PROGRAM DESIGNATED BY THE COUNTY BOARD OF SUPERVISORS.

36 B. IF THE COUNTY BOARD OF SUPERVISORS HAS NOT DESIGNATED A PROGRAM TO
37 PROVIDE COMPETENCY RESTORATION TREATMENT, THE COURT MAY COMMIT THE DEFENDANT
38 FOR COMPETENCY RESTORATION TREATMENT TO the Arizona state hospital, subject
39 to funding appropriated by the legislature to the Arizona state hospital for
40 inpatient competency restoration treatment services, or to any other facility
41 that is approved by the court.

42 C. A COUNTY BOARD OF SUPERVISORS THAT HAS DESIGNATED A COUNTY
43 RESTORATION TREATMENT PROGRAM MAY ENTER INTO CONTRACTS WITH PROVIDERS,
44 INCLUDING THE ARIZONA STATE HOSPITAL, FOR INPATIENT, IN CUSTODY COMPETENCY

1 RESTORATION TREATMENT. A COUNTY COMPETENCY RESTORATION TREATMENT PROGRAM MAY
2 DO THE FOLLOWING:

3 1. PROVIDE COMPETENCY RESTORATION TREATMENT TO A DEFENDANT IN THE
4 COUNTY JAIL, INCLUDING INPATIENT TREATMENT.

5 2. OBTAIN COURT ORDERS TO TRANSPORT THE DEFENDANT TO OTHER PROVIDERS,
6 INCLUDING THE ARIZONA STATE HOSPITAL, FOR INPATIENT, IN CUSTODY COMPETENCY
7 RESTORATION TREATMENT.

8 D. In determining the type and location of the treatment, the court
9 shall select the least restrictive treatment alternative after considering
10 the following:

11 1. If confinement is necessary for treatment.

12 2. The likelihood that the defendant is a threat to public safety.

13 3. The defendant's participation in and cooperation during an
14 outpatient examination of competency to stand trial conducted pursuant to
15 section 13-4507.

16 4. The defendant's willingness to submit to outpatient competency
17 restoration treatment as a condition of pretrial release, if the defendant is
18 eligible for pretrial release.

19 ~~B.~~ E. An order entered pursuant to this section shall state if the
20 defendant is incompetent to refuse treatment, including medication, pursuant
21 to section 13-4511.

22 ~~C.~~ F. A defendant shall pay the cost of inpatient, IN CUSTODY
23 competency restoration treatment unless otherwise ordered by the court. If
24 the court finds the defendant is unable to pay all or a portion of the costs
25 of inpatient, IN CUSTODY treatment, the state shall pay the costs of
26 inpatient, IN CUSTODY competency restoration treatment at the Arizona state
27 hospital that are incurred until:

28 1. Seven days, excluding Saturdays, Sundays or other legal holidays,
29 after the hospital submits a report to the court stating that the defendant
30 has regained competency or that there is no substantial probability that the
31 defendant will regain competency within twenty-one months after the date of
32 the original finding of incompetency.

33 2. The treatment order expires.

34 3. Seven days, excluding Saturdays, Sundays or other legal holidays,
35 after the charges are dismissed.

36 ~~D.~~ G. The county, or the city if the competency proceedings arise out
37 of a municipal court proceeding, shall pay the hospital costs that are
38 incurred after the period of time designated in subsection ~~C.~~ F of this
39 section and shall also pay for the costs of inpatient, IN CUSTODY competency
40 restoration treatment in court approved programs that are not programs at the
41 Arizona state hospital.

42 ~~E.~~ H. Payment for the cost of outpatient community treatment shall be
43 the responsibility of the defendant unless:

44 1. The defendant is enrolled in a program which covers the treatment
45 and which has funding available for the provision of treatment to the

1 defendant, and the defendant is eligible to receive the
2 treatment. Defendants in these circumstances may be required to share in the
3 cost of the treatment if cost sharing is required by the program in which the
4 defendant is enrolled.

5 2. The court finds that the defendant is unable to pay all or a
6 portion of treatment costs or that outpatient treatment is not otherwise
7 available to the defendant. For defendants in these circumstances, all or a
8 portion of the costs of outpatient community treatment shall be borne by the
9 county or the city if the competency proceedings arise out of a municipal
10 court proceeding.

11 ~~F.~~ I. A treatment order issued pursuant to this section is valid for
12 one hundred eighty days or until one of the following occurs:

13 1. The treating facility submits a report that the defendant has
14 regained competency or that there is no substantial probability that the
15 defendant will regain competency within twenty-one months after the date of
16 the original finding of incompetency.

17 2. The charges are dismissed.

18 3. The maximum sentence for the offense charged has expired.

19 4. A qualified physician who represents the Arizona state hospital
20 determines that the defendant is not suffering from a mental illness and is
21 competent to stand trial.

22 ~~G.~~ J. The Arizona state hospital shall collect census data for adult
23 restoration to competency treatment programs to establish maximum capacity
24 and the allocation formula required pursuant to section 36-206, subsection D.
25 The Arizona state hospital or the department of health services is not
26 required to provide restoration to competency treatment that exceeds the
27 funded capacity. If the Arizona state hospital reaches its funded capacity
28 in either or both the adult male or adult female restoration to competency
29 treatment programs, the superintendent of the state hospital shall establish
30 a waiting list for admission based on the date of the court order issued
31 pursuant to this section.

32 Sec. 3. Section 13-4512, Arizona Revised Statutes, as amended by Laws
33 2001, chapter 244, section 3, is amended to read:

34 13-4512. Treatment order; commitment

35 A. The court may order a defendant to undergo ~~outpatient~~ OUT OF
36 CUSTODY competency restoration treatment. ~~or may~~ IF THE COURT DETERMINES
37 THAT CONFINEMENT IS NECESSARY FOR TREATMENT, THE COURT SHALL commit the
38 defendant for competency restoration treatment to THE COMPETENCY RESTORATION
39 TREATMENT PROGRAM DESIGNATED BY THE COUNTY BOARD OF SUPERVISORS.

40 B. IF THE COUNTY BOARD OF SUPERVISORS HAS NOT DESIGNATED A PROGRAM TO
41 PROVIDE COMPETENCY RESTORATION TREATMENT, THE COURT MAY COMMIT THE DEFENDANT
42 FOR COMPETENCY RESTORATION TREATMENT TO the Arizona state hospital or any
43 other facility that is approved by the court.

44 C. A COUNTY BOARD OF SUPERVISORS THAT HAS DESIGNATED A COUNTY
45 RESTORATION TREATMENT PROGRAM MAY ENTER INTO CONTRACTS WITH PROVIDERS,

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2 RESTORATION TREATMENT. A COUNTY COMPETENCY RESTORATION TREATMENT PROGRAM MAY
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6 2. OBTAIN COURT ORDERS TO TRANSPORT THE DEFENDANT TO OTHER PROVIDERS,
7 INCLUDING THE ARIZONA STATE HOSPITAL, FOR INPATIENT, IN CUSTODY COMPETENCY
8 RESTORATION TREATMENT.

9 D. In determining the type and location of the treatment, the court
10 shall select the least restrictive treatment alternative after considering
11 the following:

12 1. If confinement is necessary for treatment.

13 2. The likelihood that the defendant is a threat to public safety.

14 ~~B.~~ E. An order entered pursuant to this section shall state if the
15 defendant is incompetent to refuse treatment, including medication, pursuant
16 to section 13-4511.

17 ~~G.~~ F. A defendant shall pay the cost of inpatient, IN CUSTODY
18 competency restoration treatment unless otherwise ordered by the court. If
19 the court finds the defendant is unable to pay all or a portion of the costs
20 of inpatient, IN CUSTODY treatment, the state shall pay the costs of
21 inpatient, IN CUSTODY competency restoration treatment at the Arizona state
22 hospital that are incurred until:

23 1. Seven days, excluding Saturdays, Sundays or other legal holidays,
24 after the hospital submits a report to the court stating that the defendant
25 has regained competency or that there is no substantial probability that the
26 defendant will regain competency within twenty-one months after the date of
27 the original finding of incompetency.

28 2. The treatment order expires.

29 3. Seven days, excluding Saturdays, Sundays or other legal holidays,
30 after the charges are dismissed.

31 ~~D.~~ G. The county, or the city if the competency proceedings arise out
32 of a municipal court proceeding, shall pay the hospital costs that are
33 incurred after the period of time designated in subsection ~~G~~- F of this
34 section and shall also pay for the costs of inpatient, IN CUSTODY competency
35 restoration treatment in court approved programs that are not programs at the
36 Arizona state hospital.

37 ~~E.~~ H. Payment for the cost of outpatient community treatment shall be
38 the responsibility of the defendant unless:

39 1. The defendant is enrolled in a program which covers the treatment
40 and which has funding available for the provision of treatment to the
41 defendant, and the defendant is eligible to receive the treatment. Defendants
42 in these circumstances may be required to share in the cost of the treatment
43 if cost sharing is required by the program in which the defendant is
44 enrolled.

1 2. The court finds that the defendant is unable to pay all or a
2 portion of treatment costs or that outpatient treatment is not otherwise
3 available to the defendant. For defendants in these circumstances, all or a
4 portion of the costs of outpatient community treatment shall be borne by the
5 county or the city if the competency proceedings arise out of a municipal
6 court proceeding.

7 F. I. A treatment order issued pursuant to this section is valid for
8 one hundred eighty days or until one of the following occurs:

9 1. The treating facility submits a report that the defendant has
10 regained competency or that there is no substantial probability that the
11 defendant will regain competency within twenty-one months after the date of
12 the original finding of incompetency.

13 2. The charges are dismissed.

14 3. The maximum sentence for the offense charged has expired.

15 Sec. 4. Laws 1999, chapter 255, section 9, as amended by Laws 2001,
16 chapter 244, section 6, Laws 2002, chapter 161, section 11 and Laws 2004,
17 chapter 26, section 3, is amended to read:

18 Sec. 9. Effective date

19 Section 13-4512, Arizona Revised Statutes, as amended by Laws 1999,
20 chapter 255, section 5, and Laws 2001, chapter 244, section 3 AND SECTION 3
21 OF THIS ACT, is effective from and after June 30, 2006.

APPROVED BY THE GOVERNOR MAY 4, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 4, 2005.

Passed the House April 18, 20 05,

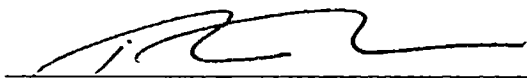
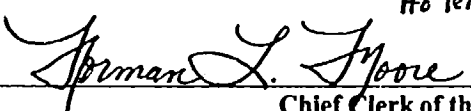
by the following vote: 57 Ayes,

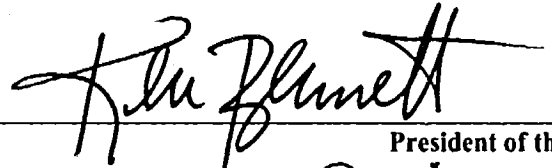

3 Nays, 6 Not Voting

Passed the Senate January, 20 05,

by the following vote: 23 Ayes,

5 Nays, 2 Not Voting


Speaker of the House
Pro Tempore

Chief Clerk of the House


President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1013

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 28, 2005,

by the following vote: 27 Ayes,

1 Nays, 2 Not Voting

Klu Bennett
President of the Senate
Charmian Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28th day of April, 2005

at 12:01 o'clock P. M.

Vannessa Iphigene
Secretary to the Governor

Approved this 4 day of

May, 2005,

at 2:00 o'clock P. M.

Jon R. Riffe
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of May, 2005

at 4:19 o'clock P. M.

Janice K. Brewer
Secretary of State

S.B. 1013